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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/601,653	06/24/2003	Shuichi Ohtsuka	3562-0130P	1293
2292 7590 07/09/2007 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			EXAMINER BAYAT, ALI	
			ART UNIT 2624	PAPER NUMBER
			NOTIFICATION DATE 07/09/2007	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/601,653	<b>Applicant(s)</b> OHTSUKA, SHUICHI	
	<b>Examiner</b> Ali Bayat	<b>Art Unit</b> 2624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 24 April 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 3-12, 14 and 16-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 3, 5-12, 14 and 16-18 is/are rejected.
- 7) ☒ Claim(s) 4 and 11 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>5/17/07</u> . | 6) <input type="checkbox"/> Other: _____  |

***Response to Amendment***

1. Applicant's arguments filed on 4/24/07 have been fully considered but they are not persuasive. On page 8 of Applicant's remarks, Applicant argues "Kotani merely discloses a searching method, and does not disclose the feature of the present invention that judges whether the received image data is to be maintained in the data storage or not based on the correlativity, as is now clearly recited in the amended independent claims 12, 14 and 16.

Examiner respectfully disagrees, Kotani provides for searching method (see Paragraphs 32 and 33, lines 8-11, note when " the search conditions (meta-data or appending data) are specified), and judges whether the received image data is be kept in the data storage or not based on the correlativity (Fig.3 element 306, Para.34, note display portion 306, displays the image selected from the thumbnail images displayed in the list display portion 305, which corresponds to maintaining the image data, note that images in the list display portion 305, are selected, because they match the search conditions, in database or storage, see Para.42, also abstract).

Applicant submits that the rejection to independent claims 12, 14 and 16 has been overcome by the present amendment to clearly recite the feature of the received image data is to be maintained in the data storage unit. As can be seen from this, Kotani cannot collect the image data having a high correlativity, which is one of the main features of the claimed invention, since Kotani appears to maintain all received images in the data storage unit regardless of the correlativity.

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Examiner respectfully disagrees, Kotani provides for stored images, which matching the search conditions in database or storage. See Para.33.

*Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 12,14, 16-18, 3,5 and 7-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Kotani (Pub. No.: US 2002/0078038 A1).

In regard to claim 12, Kotani provides for appending information generating means for generating appending information (Fig.4, Para. 30 see meta-data attached to the still image data, corresponds to appending information) based on contents of an image data when the image data is received (Fig.4, Para.30, note five attributes of the meta-data such as (Photographer, Date, Location, Event and Keywords) a data storage unit for storing another image data including the appending information (Para.42, note database,) correlativity judgment means for judging a correlativity between the image data and another image data from which the appending information is generated based on the appending information ( Paragraphs 32 and 33, lines 8-11, note when “the search conditions (meta-data or appending data) are specified, the thumbnails

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corresponding to the n images selected from the still image data matching the search conditions are displayed" which corresponds to correlativity judgment means ; and maintenance judgment means for judging whether the received image data is to be maintained in the storage unit based on the correlativity ( Fig.3 element 306, Para.34, note display portion 306, displays the image selected from the thumbnail images displayed in the list display portion 305, which corresponds to maintaining the image data).

With regard to claim 14, see the rejection of claim 12. It recites similar limitations as claim 12. Except that claim 14 is a method and claim 12 is an apparatus. Hence it is similarly analyzed and rejected.

As to claim 16, see the rejection of claim 12. It recites similar limitations as claim 12. Except for a computer readable medium storing thereon a program (Para. 25 line 1-5). Hence it is similarly analyzed and rejected.

In regard to claim 17, Kotani provides for selection means repeats to select a plurality of the other image data until a predetermined number of the other image data are selected (Fig.3, see portion 305, Para.33, note the maximum number of thumbnails to be displayed in the list display portion 305 at one time is 25) said maintenance judgment means judges that the received image data is not to be maintained if only the other image data, of which the correlativity with the received image data is lower than a predetermined reference value, is received ( Para 33, lines 8-11, note when "the search conditions (meta-data or appending data) are specified, the thumbnails corresponding to the n images selected from the still image data

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matching the search conditions are displayed” which corresponds to correlativity judgment means).

As to claim 18, see the rejection of claim 12. It recites similar limitations as claim 12. Hence it is similarly analyzed and rejected.

As to claim 3, Kotani provides for a communication unit for communicating with another image processing apparatuses, wherein when it is judged that the image data is not to be maintained, said maintenance judgment means causes said communication unit to transfer the image data to another image processing apparatuses. (Para.27, see the last 4 lines, note “a USB terminal for connecting a digital camera to the image search apparatus or a network connecting terminal for connecting the apparatus to a network, examiner interpret that after image selected (Fig.3 element 306 Para.34) from the thumbnail images displayed (Fig.3 element 305 Para.34) image can be transfer to another image apparatus such as digital camera).

In regard to claim 5, Kotani provides for appending information attaching means for attaching the appending information to the image data (Fig.5 see meta-data (attributes and data values), Para.28 lines 1-4).

With regard to claim 7, Kotani provides for appending information generating means generates information indicating contents of the image data as the appending information by analyzing the image. (Fig.4, Para.30, note five attributes of the meta-data such as (Photographer, Date, Location, Event and Keywords).

As to claim 8, Kotani provides for appending information generating means generates processing conditions (Para.31 lines 5-6, note search condition concerning

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the meta-data corresponds to processing conditions) for processing the image data as the appending information by analyzing the image (Fig.4, Para.30, note five attributes of the meta-data such as (Photographer, Date, Location, Event and Keywords).

In regard to claim 9, Kotani provides for selection means for selecting the other image data, which is to be used for judgment of the correlativity, using at least a part of the appending information (Fig.6 element 606, Para.38 lines 10-14).

With regard to claim 10, Kotani provides for selection means repeats to select the plurality of other image data until a predetermined number of the other image data are selected (Fig.4, Para.30, note five attributes of the meta-data such as (Photographer, Date, Location, Event and Keywords), which corresponds to the predetermined other image data).

3. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kotani ( Pub. No.: US 2002/0078038 A1), in view of Shaffer et al.(Us 6,389,181).

In regard to claim 6, Kotani does not provide for composite means for composing the image data with the other image data based on the correlativity information. Shaffer provides for composing the image data with the other image data based on the correlativity information (col.5 lines 50-55, note " customer requests a birthday photo-collage the system will retrieve the default processing goals which indicate that the steps of collecting, sorting, culling, annotating, and composing will be involved in the processing to the requested product", also see Fig.3 element 72). One in the art would have been motivated to modify Kotani according to Shaffer to " employing means responsive to the sorting step to compose a photo-collage from the digital records. The

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system then associates each of the images with at least one of the categories followed by a sorting step that arranges the images according to the categories col.2 lines 44-51; this would improve image recognition techniques for generating photo-collages automatically, see the field of the invention " and therefore it would have obvious to one of the ordinary skill in the art to modify Kotani as modified according to Shaffer.

4. Claims 4 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.



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### Contact Information


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ali Bayat whose telephone number is 571-272-7444.

The examiner can normally be reached on M-F 9:00 AM-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Bella can be reached on 571-272-7778 The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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6/20/07



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